

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
(Boston Division)

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UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION,

Plaintiff,

v.

STEVEN E. NOTHERN,

Defendant.

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Civil Action No. 05-10983 (NMG)

**JOINT MOTION TO EXTEND DISCOVERY DEADLINES**

Pursuant to the conference with the Court (Sorokin, M. J.) on June 14, 2006, the parties hereby jointly move for an extension of time in which to conduct discovery in order to permit them to address ongoing document production by various departments and agencies of the United States. The parties request to modify the following discovery and summary judgment deadlines as follows:

<b>Dec. 15, 2006</b>	<b>Complete non-expert depositions</b>
<b>Jan. 31, 2007</b>	<b>Expert designations</b>
<b>Feb. 28, 2007</b>	<b>Complete expert depositions</b>
<b>Mar. 30, 2007</b>	<b>File dispositive motions</b>
<b>Apr. 20, 2007</b>	<b>Respond to dispositive motions</b>

As grounds for the joint motion, the parties state as follows:

1. This is a complex civil litigation involving tens of thousands of documents, numerous deponents located across the United States, and multiple government investigations conducted by the Treasury Department (“Treasury”), the Justice Department (“DOJ”), and the

Commodities Futures Trading Commission (“CFTC”), as well as the plaintiff Securities and Exchange Commission (“SEC”).

2. The parties have made substantial progress in their fact discovery to date. Document productions have been made by the SEC, defendant Steven Nothern, Peter Davis, and Merrill Lynch. Eleven depositions have been held in Boston, New York, Washington, Tampa, and Sarasota, and several more have been scheduled for the remainder of August and September.

3. Notwithstanding their diligent efforts to date, the parties do not believe that fact discovery can be completed by the current deadline of September 15, 2006 due to the fact that various government agencies and departments have not completed production of documents. By way of further background, on February 17, 2006, Nothern filed a motion to compel production of documents in the possession of various government departments and agencies other than the SEC itself. The SEC opposed the motion. Pursuant to the Court’s proposal at the motion hearing on June 14, 2006, the parties have sought to resolve these matters without a court ruling. As the SEC noted in its status report filed on July 31, 2006, the SEC submitted requests on June 30, 2006, to Treasury, DOJ, and CFTC. In a letter dated July 27, 2006, attached as Exhibit C to the SEC’s status report, DOJ declined to produce any further documents. Despite receiving a requested clarification narrowing Mr. Nothern’s request, CFTC has not yet produced any documents but it is hoped that it will do so soon. On August 3, 2006, Treasury produced 72 pages of documents. A cover letter from Treasury stated without elaboration that it “will be responding to the remainder of your request in the coming weeks” (but did not provide a date certain) and contended that some of the requests as “appear to be unduly burdensome.” Counsel for Treasury has declined requests for an estimate of when Treasury’s production will be complete.

4. Nothern will inform the Court as soon as the parties' efforts to obtain the requested documents through the voluntary compliance of Treasury, DOJ, and CFTC have been exhausted. At that time, Nothern may seek additional relief, including a formal ruling on his motion and a further extension of the discovery deadline.

5. The modifications requested above need not affect the current trial date in this case of June 4, 2007, although the parties do not oppose any postponement of the trial in connection herewith if the Court's schedule should so require.

6. The parties certify that they have conferred and agreed upon this joint motion. No memorandum of law or affidavit is submitted in support of this motion since there are no disputed issues of fact or law in connection with the motion and the relief requested is within the discretion of the Court.

WHEREFORE, the parties respectfully ask this Court to extend the deadlines for completion of non-expert depositions to December 15, 2006; for expert designations to January 31, 2007; for expert depositions to February 28, 2007; for service of dispositive motions to March 30, 2007; and for responses to dispositive motions to April 20, 2007.

FOR THE PLAINTIFF:

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